

JAMES DENNY.

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MAY 31, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

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Mr. BROWNLOW, from the Committee on Military Affairs, submitted the following

REPORT.

[To accompany S. 4037.]

The Committee on Military Affairs, to whom was referred the bill (S. 4037) to correct the military record of James Denny, having had the same under consideration, report it back to the House with the recommendation that the bill do pass.

The facts in the case are shown in the Senate report, which is as follows:

The Committee on Military Affairs, to whom was referred the bill (S. 4037) to correct the military record of James Denny, have duly considered the same and submit the following report:

Your committee hereto attach letters from the War Department and the Treasury Department. They show that James Denny was paid to June 30, 1862; that he was enrolled January 13, 1862, in Company A (subsequently Company B), Thirteenth Missouri State Militia Cavalry, afterwards Company L, Third Missouri State Militia Cavalry; was present to April 30, 1862, and thereafter was absent sick, and on the muster-out roll of his company, January 31, 1865, was marked "dropped from the rolls by Capt. W. T. Leeper, December 10, 1862." From the evidence on file in the War Department, as shown by the reports and the additional evidence presented to your committee, it is established that Mr. Denny was attacked with epileptic fits and was allowed by his officers to return to his home, in the same section of the State where his company was operating in the winter and spring of 1862, and so remained till his company was mustered out, and the fact of his presence at home and visiting his company and regiment was known by his comrades and officers.

F. M. Hughes, a comrade in same company, testified:

"I knew of my own personal knowledge that he (Denny) had an epileptic fit in February, 1862, and an epileptic fit in spring of 1862. And after he had the second attack I heard the captain, W. T. Leeper, say, 'We must discharge this man,' and it was generally talked in the camp that he had been sent home to await his discharge."

Captain Leeper testified "that he does not know why the soldier did not receive a discharge, that he (affiant) was not in command of the company during the last year of the war, and has no recollection of the soldier having been a deserter. Affiant remembered of his having had fits while he (affiant) was in command, and that at times he was not on duty on that account. These facts explain the entry on the muster-out roll, "dropped from rolls by Capt. W. T. Leeper, December 10, 1862," and show that it was clearly the purpose to discharge this soldier.

The case is exceptional and your committee recommend the passage of the bill.

DECEMBER 27, 1897.

*Case of James Denny, late of Company L, Third Missouri State Militia.*

The official records show this soldier to have been enrolled January 13, 1862, at Middlebrook, Mo., as a corporal in Company A (subsequently Company B), Twelfth Missouri State Militia Cavalry, afterwards Company L, Third Missouri State Militia Cavalry, for the war in Missouri, and on the muster roll to April 30, 1862, he is reported present. Roll for May and June, 1862, reports him absent sick at home, and on the roll for July and August, 1862, he is reported absent—"left on sick leave July 3, 1862, and has not returned." He did not rejoin his command, and on the muster-out roll of his company, dated January 31, 1865, he is reported "dropped from the rolls by Capt. W. T. Leeper, December 10, 1862."

The following is a synopsis of the testimony heretofore submitted to the Department in connection with application for removal of the charge of desertion, to wit:

Under date of May 10, 1883, the soldier testified that he did not receive a discharge for the reason that he was a prisoner of war when his regiment was mustered out. (The prisoner of war records afford no evidence of capture, confinement, etc., as regards this soldier.)

Under date of March 11, 1884, the soldier testified that he left his command some time in the fall of 1862, with a written permission from his captain, which permission was granted on account of his having epileptic fits and his unfitness for duty; that he was at his home at Pilot Knob, Mo., all the time after leaving his command until it was mustered out; that the officers and members of his company knew of his whereabouts, but did not send for him, and consequently he did not receive a discharge.

John Sweeney, a comrade, testified February 28, 1887, that he was acquainted with the soldier before his enlistment, and that up to that time he was a sound, able-bodied man, and free from disease.

About a month or six weeks after enlistment the soldier was taken sick with "fits" while on drill and was placed in the charge of a citizen physician, by whom he was treated for said disease. While affiant was in the service the soldier had attacks two or three times a week, and after affiant's return home he saw the soldier from that time up to January, 1865, unable to return to his regiment on account of "fits," and at times only was he able to perform manual labor. (Sweeney, who had a good record, was discharged August 12, 1862.)

Argus Cowan, another comrade, testified February 28, 1887, that while a portion of the regiment was encamped near Pilot Knob, Mo., in the fall of 1862, he was present and saw the soldier have a "fit;" that the regimental surgeon attended him, but could render no aid until after the "fit" had passed. This occurred while returning from feeding his horse, after which affiant saw nothing more of him.

Patrick McCarran, also a comrade, testified that he saw the soldier have two attacks of epileptic fits and that he was sent home on that account, and that the officers and members of his company knew of his subsequent whereabouts.

W. T. Leeper, late captain of soldier's company, testified June 3, 1884, that he does not know why the soldier did not receive a discharge; that he (affiant) was not in command of the company during the last year of the war, and has no recollection of the soldier having been a deserter. Affiant remembered of his having had fits while he (affiant) was in command, and that at times he was not on duty on that account.

On June 7, 1887, the Department did not deem the testimony presented as sufficient to warrant an amendment of record, and the application was therefore denied.

Nathan Jackson, under date of August 5, 1887, testified that he was well acquainted with the soldier before he went into the Army, and that after his return home, in 1862, he remained at Pilot Knob most of the time of the war. Affiant had seen the soldier have fits on several occasions, and that they were very severe, though affiant never knew him to be so afflicted before he entered the Army.

Under date of October 10, 1887, D. C. Bonney, a comrade, testified that about July, 1862, the soldier was permitted to go home by reason of fits, remaining about one month, when he returned and was again furloughed. That the soldier was furloughed from time to time, but always returning after remaining at home a short time; that the officers and comrades knew he was home sick with fits and unfit for duty.

Philip McCarran testified that he was a comrade, and that during the last year the soldier was in service (1864?) he did not answer roll calls regularly, the officers appearing to let him come and go as he pleased; that the soldier appeared to be troubled with epileptic fits, affiant having seen him fall from his horse on account of said fits.

On June 10, 1890, the Department held to its former adverse decision.

Since then no new testimony has been introduced and the status of the soldier remains unchanged.

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,  
*Washington, D. C., February 12, 1898.*

SIR: In reply to your request for information as to the military service of James Denny, I have the honor to state that the Auditor for the War Department reports that the records of his office show that James Denny, late corporal, Company B, Twelfth Missouri State Militia Cavalry, was last paid to include June 30, 1862.

There is no record of payment to this soldier as of Company L, Third Missouri State Militia Cavalry, nor any later payment than that stated above in the services given.

Respectfully, yours,

O. L. SPAULDING,  
*Acting Secretary.*

Hon. F. M. COCKRELL, *United States Senate.*

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